

REMARKS

Claims 1 – 7, 9 – 14, and 16 – 18 are presently pending. In the above-identified Office Action, the Examiner rejected Claims 1 – 7, 9 – 14, and 16 – 17 under 35 U.S.C. § 103(a) as being unpatentable over Anderson (U. S. Patent 5,857,156) in view of McMullan, Jr. *et al.* (U. S. Patent No. 5,654,746). The statutory basis for the rejection of Claim 18 was not stated explicitly. Nonetheless, Applicant has assumed that Claim 18 was also rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson (U. S. Patent 5,857,156) in view of McMullan, Jr. *et al.* (U. S. Patent No. 5,654,746).

By this Amendment, Claims 1, 13 and 17 have been amended to more clearly limit the claims to SDARS technology. Applicant respectfully requests the Examiner accord patentable weight to these limitations.

For the reasons set forth more fully below, reconsideration, allowance and passage to issue are respectfully requested.

As stated previously, the invention of the subject Application addresses the need in the art for an inexpensive system and method for distributing music, information and other content on physical storage media per the desires of the end user in a legal manner that does not violate the rights of the content providers and/or artists.

In accordance with the invention, program content and data relating thereto is first transmitted to a consumer via a network. The user is provided with a receiver that is capable of receiving the transmission and providing an audio and/or visual output in response thereto. In addition, the receiver is adapted to receive an input from the user by which the user is able to signal an interest in purchasing a selection of music or data being played and/or displayed.

In the illustrative embodiment, in response to this signal from the user, a signal is stored that identifies the selection being played and/or displayed. The ID signal may be a composite signal indicating the time and channel, a signal that identifies a selection by number, or other suitable ID signal. The receiver or the user's home computer may be used to display the title, artist and/or other information based on the user's selections.

In the illustrative embodiment, the system includes a mechanism for allowing the user to retrieve the desired selection from a second network using the removable media. Several alternatives are provided for the retrieval mechanism. In one embodiment, the retrieval mechanism is a computer, located either in the user's home or in a commercial establishment, through which the user is allowed to access a web site on the World Wide Web or a site on a private distribution hub. In either case, the site provides interface software, which translates the ID signal into a human readable identification (e.g., title and artist) of the music or data selected. In an alternative embodiment, the computer is provided in a kiosk accessible to the public.

The user then either downloads the desired selection through the site or places an order for delivery of physical media (e.g., a CD) on which the desired selection is stored.

The invention is set forth in Claims of varying scope of which Claim 18 is illustrative. Claim 18 recites:

18. A system for distributing program content comprising:
first means for transmitting said program content and data relating thereto using a first network;
second means for receiving said program content and data relating thereto;
third means for receiving user input while a selection of said program content is being output by said receiver; and
fourth means for storing data relating to said selection in response to said user input. (Emphasis added.)

None of the references, including those cited but not applied, teaches, discloses or suggests a system for distributing program content having a means for transmitting the program content and data relating thereto via a network and for storing the data in response to a user input as presently claimed.

In the most recent Office Action, the Examiner acknowledged that Anderson does not disclose the third and fourth means. However, the Examiner suggests that this teaching is supplied by McMullan.

McMullan purports to teach a secure authorization and control method and apparatus for a game delivery service. On page 10 of the Office Action, the Examiner discusses the teaching of McMullan at length and concludes that it would have been obvious to apply the teaching of McMullan to the communication system of Anderson in order to allow the user flexibility to retrieve the desired selection from a second network using removable media and to access a web.

However, the Examiner has not stated how McMullan provides any of the teachings not taught or suggested by Anderson as set forth above. Specifically, the Examiner has once again not addressed where in the McMullan reference a teaching may be found with respect to the shortcomings of Anderson. That is, where in McMullan is a teaching with respect to: 1) means for receiving user input while a program selection is being output by the receiver; and 2) means for storing data relating to the selection in response to the user's input? Clearly, no such teaching is provided by McMullan. Hence, the rejections of the Claims 1, 16, 17 and 18 and the claims dependent thereon are improper and should be withdrawn.

In addition, the Examiner suggested that at 42 in Fig. 1 and col. 3, lines 60 – 67 Anderson teaches a satellite digital audio service transmitter. However, while the reference appears to teach a satellite based communication system, it clearly makes no mention and provides no teaching of an SDARS transmitter or receiver *per se*.

As is well-known in the art, an SDARS system is a unique satellite based communication system. See http://www.lta.com/res_regulatory/sdars.htm and "*Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*". Hence, Applicants suggest that when the Examiner considers the SDARS limitations in the present claims it will be clear that the inventions of Claims 1, 13 and the claims dependent thereon are not taught by the cited art.

Reconsideration, allowance and passage to issue are respectfully requested.

Respectfully submitted,
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